

U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*


MEMO ENDORSED

January 28, 2023

By ECF

The Honorable Edgardo Ramos
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

The request is granted. All defendants shall respond to the second amended complaint by March 17, 2023. SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: January 30, 2023
New York, New York

Re: *Burton v. United States*, Case No. 18 CV 2039 (ER)

Dear Judge Ramos:

This Office represents defendant the United States, sued under the Federal Tort Claims Act ("FTCA"), and defendants Anthony Bussanich, Robert Beaudouin, Ysmael Joaquin, Kimberly Shivers, all current or former employees of the Bureau of Prisons ("BOP") being sued in their individual capacity under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971).

This action arises from the death of Franklin Sanchez while incarcerated at the Metropolitan Correctional Center in New York. On consent of plaintiffs, we write to request an extension of time for all defendants to respond to the second amended complaint, from February 1 to March 17, 2023. The request is being made to provide sufficient time for defendants newly added to this action in the second amended complaint – Terrance Thomas, Lorenzo Barazza, Quentin Holzendorf, Gerald Castillo, Shaadiq Shakir and Wilson Silva, all of whom are current or former employees of the Bureau of Prisons being sued in their individual capacity – to complete the process of obtaining representation from the Department of Justice.¹ We believe that this process will be completed within the next three weeks, by February 17. If representation is authorized, we will be in a position to accept service of the second amended complaint, thereby avoiding costs of service and delay in the filing of their answers². This schedule would

¹ Because this Office is not currently authorized to represent Thomas, Barazza, Holzendorf, Castillo, Shakir and Silva, we write on their behalf only for this limited purpose.

² Rosalind Silva, another newly named defendant, is no longer a BOP employee. We have been unable to contact Silva about the second amended complaint or seeking DOJ representation. The parties are conferring in good faith about the BOP providing plaintiffs information about Silva so they may attempt to effect service of the second amended complaint, specifically, whether the Privacy Act Order in this case authorizes the BOP to disclose this information or if a Court order directing disclosure is needed. The parties expect to resolve this issue by February 3.

also enhance efficiency as it would allow all defendants in this matter to proceed forward on the same schedule.

This is the defendants' first request for an extension of time to respond to the second amended complaint. If granted, we respectfully request that the Court enter the attached proposed scheduling order to account for this change.

We thank the Court for its consideration of this matter.

Respectfully,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ Brandon Cowart
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cc: Plaintiffs' Counsel (by ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENNETH MARK BURTON as the Administrator
of the Estate of FRANKLIN RAMOS SANCHEZ,
MADGA LILIANA MARTINEZ ACOSTA,
Individually and as m/n/g of F.N.R.M., an Infant, and
FRANCY TATIANA RAMOS MARTINEZ,

Plaintiffs,

v.

UNITED STATES OF AMERICA; ANTHONY
BUSSANICH, M.D., ROBERT BEAUDOUIN,
M.D., YSMAEL JOAQUIN, MLP, NURSE
TERRANCE THOMAS, OPERATIONS
LIEUTENANT KIMBERLY SHIVERS,
OPERATIONS LIEUTENANT LORENZO
BARAZZA, HOUSING UNIT OFFICER QUENTIN
HOLZENDORF, HOUSING UNIT OFFICER
GERALD CASTILLO, HOUSING UNIT OFFICER
SHAADIQ SHAKIR, HOUSING UNIT OFFICER
ROSALIND SILVA, SENIOR OFFICER WILSON
SILVA, BOP JOHN DOE SUPERVISOR 1, and
JOHN/JANE DOES Nos. 1-5,

Defendants.

No. 18 CV 2039 (ER) (SDA)

REVISED SCHEDULING ORDER

IT IS HEREBY ORDERED that the Civil Case Management Plan and Scheduling Order is amended as follows:

1. All fact discovery shall be completed by July 11, 2023.
2. Expert reports shall be served no later than August 10, 2023.
3. Rebuttal expert reports shall be served no later than August 24, 2023.
4. Expert depositions shall be completed by September 22, 2023.
5. All discovery shall be completed by October 6, 2023.
6. Amended pleadings substituting the correct name of any John/Jane Doe Defendants identified in the Second Amended Complaint may be filed until July 11, 2023.

7. The next case management conference is scheduled for October 25, 2023 at 10:00 AM.

Dated: New York, New York
January 30, 2023

SO ORDERED:

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS
U.S.D.J.